

**STATE OF OKLAHOMA'S RESPONSE IN OPPOSITION TO
PETERSON FARMS, INC.'S MOTION IN LIMINE
REGARDING FORMER EMPLOYEES (Dkt. #2395)**

EXHIBIT 1

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

W. A. DREW EDMONDSON, in his)
capacity as ATTORNEY GENERAL)
OF THE STATE OF OKLAHOMA and)
OKLAHOMA SECRETARY OF THE)
ENVIRONMENT C. MILES TOLBERT,))
in his capacity as the)
TRUSTEE FOR NATURAL RESOURCES))
FOR THE STATE OF OKLAHOMA,)

Plaintiff,)

vs.)

4:05-CV-00329-TCK-SAJ

TYSON FOODS, INC., et al,)

Defendants.)

THE VIDEOTAPED DEPOSITION OF
RONALD MULLIKIN, produced as a witness on behalf
of the Plaintiff in the above styled and numbered
cause, taken on the 14th day of November, 2007, in
the City of Tulsa, County of Tulsa, State of
Oklahoma, before me, Lisa A. Steinmeyer, a Certified
Shorthand Reporter, duly certified under and by
virtue of the laws of the State of Oklahoma.

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1 A No.

2 Q At the time you gave your deposition in that
3 case, were you employed by Peterson Farms?

4 A I was not.

5 Q You previously had been an employee of 02:13PM
6 Peterson Farms?

7 A That's correct.

8 Q And that is the Peterson entity that you were
9 employed by, Peterson Farms, Inc.?

10 A Yes. 02:13PM

11 Q When was that period of employment?

12 A I believe it was from October or November of
13 '97 to approximately August of 2000.

14 Q So approximately three years?

15 A Yeah. It's been long enough ago I might be 02:13PM
16 off a year when I started.

17 Q Do you understand, sir, that as an attorney
18 for the State of Oklahoma here today my position in
19 this litigation is adverse to that of your former
20 employer, Peterson Farms, Inc.? 02:13PM

21 A Yes, I do.

22 Q Do you have any -- well, let me ask it
23 differently. Are you employed in any capacity by
24 Peterson Farms today?

25 A No, I am not. 02:14PM

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1 Q What was your initial position with the
2 company and what duties did that position entail?

3 A I originally was hired by Peterson Farms to be
4 their director of corporate training. We had
5 trainers at the plant. We had trainers in the 02:14PM
6 hatcheries and other areas of the company that I
7 would supervise those people and get involved with
8 other training, things that were needed throughout
9 the company, other exercises.

10 Q Did your duties change during the period of 02:14PM
11 time you worked for Peterson?

12 A Yes, they did. I had been there probably
13 about, I don't know, three or four months and was
14 asked to attend a meeting at Simmons Foods in Siloam
15 Springs with Janet Wilkerson. Janet came to know me 02:14PM
16 a little better and understand that I had worked
17 with my father in a number of other companies in a
18 fertilizer business in Iowa, and because I knew a
19 little bit about fertilizer and crop production, she
20 thought maybe I could go to that meeting and 02:15PM
21 possibly shed some light on what was going on.

22 Q So did that lead to a change in your duties?
23 I think that's what you were explaining.

24 A Yeah, it did. Excuse me. After that meeting
25 and a couple of other subsequent meetings, they 02:15PM

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1 asked me to really take the lead in going to the
2 meetings and becoming involved with what was going
3 on between the City of Tulsa, the various state and
4 federal agencies and Peterson Farms.

5 MR. RIGGS: Excuse me. Did we have 02:15PM
6 somebody else join us by phone? I guess not.

7 Q Did you acquire a different job title?

8 A I was known then as the director of corporate
9 training and environmental affairs and then later on
10 was also -- had the title of personnel. 02:16PM

11 Q Okay. What were your duties at the time you
12 left the company?

13 A I had those three titles, director of
14 corporate training, director of environmental
15 affairs and director of personnel. 02:16PM

16 Q Okay. Can you give me a brief summary of your
17 educational background?

18 A Went to high school, went to just a short time
19 at a community college up in Iowa and then have
20 taken a number of courses, and that's really about 02:16PM
21 it.

22 Q Okay. You did not obtain a degree from --

23 A No.

24 Q -- a higher education?

25 A No. 02:17PM

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1 Q Summarize briefly then, if you will, your work
2 experience before being employed by Peterson.

3 A Had spent quite a bit of time once again in
4 the fertilizer and chemical industry. Had worked
5 for my father. Had worked for a company called 02:17PM
6 Garst, which is -- back in the '60's and '70's the
7 Garsts had a great deal of notoriety.

8 Q They met with Khrushchev?

9 A That's right.

10 Q I remember that.

11 A Roswell Garst, a very unique gentleman, and I
12 worked for his two sons. Worked for a Tulsa-based
13 company, Williams, which had a division called
14 Agrico. I managed one of their plants for them.
15 Worked for a couple of different chemical 02:17PM
16 distributors that were -- one was regional and then
17 they were bought out by a national chemical company.

18 Q So your father had a fertilizer business?

19 A Yes.

20 Q And that's where you first got experience 02:17PM
21 dealing with fertilizers?

22 A That's correct.

23 Q What did you do for Garst?

24 A For Garst I was head of operations. We had
25 three fertilizer plants, and so I helped make sure 02:18PM

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1 that those plants were being operated in a way
2 that -- Garst was their biggest customer. They were
3 theirselves, so --

4 Q In those jobs did you learn how to take soil
5 samples? 02:18PM

6 A Yes, I did.

7 Q Did you learn anything about how fertilizers
8 work in various soil types?

9 A Yes, I did.

10 Q Did you learn anything about plant nutrient 02:18PM
11 needs?

12 A Yes.

13 Q Would you say those kinds of experiences on
14 the job were what prepared you or at least qualified
15 you to some extent to do environmental work for 02:18PM
16 Peterson?

17 MR. McDANIEL: Object to the form.

18 A I think that it was -- that background was
19 probably the reason that Petersons asked me into
20 that role. 02:18PM

21 Q Okay. Did you still hold the title, at least
22 among your other titles, of director of
23 environmental affairs when you left the company?

24 A Yes.

25 Q Why did you leave your employment with 02:19PM

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1 Peterson?

2 **A** There were a number of things going on in the
3 poultry industry at that time. A number of senior
4 people had left Peterson Farms. My old superiors at
5 Wal-Mart or Sam's Club had been calling me
6 periodically asking me to come back, and I just felt
7 like that was the right thing to do at that time.

02:19PM

8 **Q** How would you characterize your job
9 satisfaction while you worked for Peterson?

10 **A** Good.

02:19PM

11 **Q** When you assumed the position, among your
12 other functions, of director of environmental
13 affairs for Peterson, what were the primary
14 environmental concerns the company had at that time?

15 **MR. McDANIEL:** Object to the form.

02:20PM

16 **A** I think the primary concern that they had was
17 to address the issues that were being raised by the
18 City of Tulsa. Certainly nationally there were
19 issues that were being raised about animal waste in
20 general, and so it was an opportunity for them to
21 possibly get a better understanding of what was
22 going on and how those things were going to affect
23 them.

02:20PM

24 **Q** To try to be more specific, let me ask you
25 this question: Were they concerned about the

02:20PM

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1 concentration and the amount of poultry waste being
2 generated in certain watersheds and its effect on
3 the water quality of those watersheds?

4 MR. McDANIEL: Object to the form.

5 A I believe so. 02:20PM

6 Q You said you believe so?

7 A I believe so.

8 Q On what do you base your belief that they were
9 concerned about that?

10 MR. McDANIEL: Object to the form. 02:20PM

11 A The fact that they had not had anyone who had
12 been really engaged in participating in those
13 discussions, any one person. They had sent I
14 believe a number of different people to meetings
15 prior to that, and it became clear that I was the 02:21PM
16 person -- they wanted me to dedicate and have some
17 continuity with that person representing Peterson
18 Farms going to those meetings. I can think, like I
19 said, of two or three people that had been going to
20 those meetings, and I became pretty much the sole 02:21PM
21 person that went to those functions.

22 Q Who were the other people at Peterson Farms
23 who went to those meetings you are telling me about?

24 A Oh, that's been a long time ago. Janet
25 Wilkerson had attended some, Shawn Holcomb and I 02:21PM

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1 believe it was Curt Houchins. I'm not sure how to
2 pronounce his last name right now.

3 Q Okay. Where were those meetings held?

4 A I didn't attend those meetings so I don't
5 know. 02:22PM

6 Q I'm sorry.

7 A I'm assuming at various locations throughout
8 eastern Oklahoma.

9 Q Do you recall the first meeting that you
10 attended under your title and job function as 02:22PM
11 director of environmental affairs?

12 A Well, as I said, the first meeting I actually
13 attended was one in Siloam Springs at Simmons, and
14 the second meeting I believe was held somewhere in
15 Siloam Springs. I mean meetings were often held in 02:22PM
16 extension offices and various places, and really
17 from then the whole thing kind of -- it seemed like
18 it gathered more and more momentum to the point
19 where depending on who was meeting, when they were
20 meeting, I could have gone to a meeting every couple 02:22PM
21 of days on it.

22 Q I'm not very clear on what kind of meetings
23 these were. Can you tell me the subject matter of
24 the meetings?

25 A The meetings were organized by a number of 02:23PM

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1 different entities. You would have meetings that
2 would be put on by the NRCS. You would have
3 meetings that were sponsored by the various
4 universities. You would have meetings that were put
5 on by the extension services. You'd have meetings
6 that were really initiated by the City of Tulsa. I
7 attended INCOG meetings here in Tulsa, and I know
8 I'm probably leaving out a great number, but there
9 were just a lot of different key players, a lot of
10 people who were involved in this who at times had
11 their own agenda for being involved, but there were
12 a lot of players.

02:23PM

02:23PM

13 Q Were these formal meetings in the sense that
14 there would be an agenda and various topics for
15 discussion?

02:24PM

16 A Normally, yes, yes.

17 Q Was there printed material available at these
18 meetings?

19 A At times there were. At times it was nothing
20 more than somebody had a screen and a projector and
21 they would put the agenda up on the screen and say
22 this is what we're going to talk about today.

02:24PM

23 Q Can you remember some of the specific subjects
24 or topics that were discussed?

25 A Well, we were -- the primary concern or

02:24PM

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1 watershed we talked about then, if I remember
2 correctly, was the Eucha-Spavinaw. So certainly
3 talking about the effects, the opinions that
4 different people had about the effects, about
5 information that had been collected from various
6 sources, about possible solutions. We would talk
7 about best practices; we would talk about nutrient
8 management plans; we would talk about alternative
9 uses. It could be any array, and many times, you
10 know, the primary topic for that meeting was
11 determined by whomever the sponsor was.

02:24PM

02:25PM

12 Q Okay. You mentioned a couple of times the
13 effects but then I didn't hear what else you meant
14 by that. Can you tell me what you meant by effects?

15 A There were studies going on that were pointing
16 the finger as the primary non-source polluter in
17 that watershed being the poultry industry.

02:25PM

18 Q So, again, can you tell me effects; can you
19 complete that thought when you were saying effects,
20 people were studying or discussing the effects,
21 effects of what?

02:25PM

22 A It's my understanding that there were, for
23 instance, algae blooms, that the lake water quality
24 was in question, and so the effect being those
25 things, the effect of water quality whatever and

02:26PM

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1 whether or not the poultry industry was one of the
2 sources of that pollution.

3 Q Okay. As in cause and effect? You're saying
4 the subject was the effects being seen in the water
5 body such as algae and what was the cause of that; 02:26PM
6 is that correct?

7 A Uh-huh, uh-huh.

8 Q You mentioned I believe that some university
9 people attended those early meetings, first meetings
10 you attended? 02:26PM

11 A Uh-huh.

12 Q Who were some of those people?

13 A I don't recall. I remember there was some
14 from OSU and University of Arkansas, but I don't
15 recall who they were. 02:26PM

16 Q Were people at any of these meetings dealing
17 with these issues, were there people there from the
18 Tyson Poultry entities?

19 A Yes.

20 Q Do you remember any of their names? 02:27PM

21 A The earliest meetings I know Archie Schaffer
22 was in attendance at a number of those, and later on
23 it became a gentleman by the name of Les Havens and
24 Preston -- I don't remember Preston's last name, I
25 apologize, but -- and that's one thing I'll try and 02:27PM

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1 make sure -- the players changed.

2 Q Right.

3 A It's just like you asked me about people from

4 various universities. Joe -- I want to say Joe

5 Berry from OSU I believe attended some of the early 02:27PM

6 meetings. Later on from the University of Arkansas

7 there was H. L. Goodwin, Daniels. There was a Dr.

8 Moore.

9 Q Okay. Do you recall if anybody from Simmons
10 had people there at those meetings? 02:27PM

11 A They did, Claud Rutherford.

12 Q Do you recall if anyone from Cal-Maine?

13 A No, I don't.

14 Q George's, did they have people at those
15 meetings? 02:28PM

16 A Gary Harroll attended many of the meetings.

17 Q What about Cargill or Cargill Turkey

18 Productions; did they have people there?

19 A I know that Cargill had people at some of the
20 meetings and they were not -- I don't know who those 02:28PM
21 people were.

22 Q You're speaking now of meetings that were
23 occurring in 1997?

24 A No. I'm speaking of meetings that occurred
25 over the period that I was in that position. 02:28PM

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1 Q Those early meetings, I think you mentioned --

2 A I don't remember many of the actual faces that
3 were at those meetings.

4 Q I'm just trying to establish if some of those
5 meetings you are referring to now did occur in 1997. 02:28PM

6 A I can't be sure, no.

7 Q 1998?

8 A There were numerous meetings then. I started
9 that position, remember, three or four months after
10 I started. 02:29PM

11 Q Right.

12 A So --

13 Q Okay. Mr. Mullikin, have you ever heard of
14 the National Poultry Waste Management Symposium?

15 A I believe that was one of the national 02:29PM
16 organizations that would meet.

17 Q Did you attend any of those meetings?

18 A I believe so.

19 Q As I understand it, they're held every other
20 year, and they first started in 1988 and continue up 02:29PM
21 to the present.

22 MR. McDANIEL: Object to the form.

23 A That may not be the meeting then that I'm
24 thinking of. If that's the one that's held in
25 Atlanta, I never attended it. 02:29PM

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1 A Two different people.

2 Q Are they brothers?

3 A One is father; one is son.

4 Q Who is the father?

5 A Vic. 03:25PM

6 Q Vic, okay. In the second paragraph of this
7 memo of March 27, 1998, you state, I personally have
8 no opinion on whether or not the integrator or the
9 grower owns the litter. I do feel without any doubt
10 that as time passes we, the integrator, will be 03:26PM
11 found to be liable for it and the effect it has on
12 our environment. Did you write those words?

13 A Yes, I did.

14 Q First, let me ask you, what effect on the
15 environment did you feel the company would be found 03:26PM
16 liable for?

17 MR. McDANIEL: Object to the form.

18 A The effect of phosphate loading.

19 Q Into the water?

20 A Yes, sir. 03:26PM

21 Q On what did you base that?

22 A From what I recall, it would have been on
23 those meetings that I had attended and information I
24 had seen and statements that I had heard made by
25 various federal and state agencies. 03:26PM

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1 Q Why did you feel, again, quoting your own
2 words, without any doubt that the company would be
3 found liable for the litter?

4 MR. McDANIEL: Object to the form.

5 A I felt that politically that was a decision 03:26PM
6 that would have been made because of those powers
7 pushing it that way, whether it was the EPA or the
8 City of Tulsa.

9 Q Next, let me direct your attention to the
10 second page. The next to the last paragraph where 03:27PM
11 you say, Dan, I feel the direction Peterson Farms
12 and all integrators would be best served to focus
13 its resources towards would be alternative uses.

14 Things such as using litter as bedding, feed,
15 fertilizer and fuel are just a few of the uses I've 03:27PM
16 found some information on. Each of these uses has
17 its own set of benefits and shortcomings, but they
18 all address the environmental need to stop applying
19 litter to our local pasture lands. In your position
20 as head of environmental affairs at Peterson Farms, 03:27PM
21 when you wrote that memorandum on March 27th, 1998,
22 why did you say that there was an environmental need
23 to stop applying litter to local pasture lands?

24 A Because, once again, of the loading of the
25 soils, the lands, the pasture lands of phosphates 03:28PM

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1 and then it getting into the waterways.

2 Q Did other people at the management level of
3 Peterson Farms agree with you that there was an
4 environmental need to stop applying litter to local
5 pasture lands?

03:28PM

6 MR. McDANIEL: Object to the form.

7 A I don't know if they agreed with that
8 paragraph or that sentence.

9 Q Did they ever express any disagreement with
10 it?

03:28PM

11 MR. McDANIEL: Object to the form.

12 A They raised questions and we had discussions,
13 primarily Miss Wilkerson and I, about those things.

14 Q Did Dan Henderson ever express any
15 disagreement to you with what you stated in this
16 memo to him?

03:28PM

17 MR. McDANIEL: Object to the form.

18 A I don't recall that he ever specifically said
19 he agreed or disagreed.

20 Q Did Vic Evans ever tell you whether he agreed
21 or disagreed with the opinions you put in this
22 memorandum?

03:29PM

23 MR. McDANIEL: Object to the form.

24 A I never met with Mr. Evans.

25 Q Was there any kind of dialogue going on within

03:29PM

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